

- Cooke City Exxon

EXHIBIT 1

DATE 1-30-07

HB 409

Llew:

It is with a great deal of regret that I will not be able to attend the meeting with the Business and Labor Committee concerning HB 409 on Tuesday, Jan 31, 2007 at 8:00am in Room 172 of the Capital building. This bill would drastically improve condition for we small powersports dealers in the State of Montana. At this point in time the only reason that I am even paid by current labor rate is because the State of Montana provides legislation stating that the OEM may not decrease my labor rate.

I know that I could provide more information than what is listed below if I were able to attend in person; however, that not being possible I will hit on a few high points and I hope that if more information is needed from me by the committee that someone will call me.

One of the biggest power issues that the OEM's have over my dealerships is their "making" me order their specified number of units every year ~ be it ATV's or snowmobiles from Polaris Industries or snowmobiles from BRP the OEM's run the game. They tell me what I will order and if I do not:

- no programs to offer to customers
- no flooring on the units I do buy
- no or limited parts return at the end of the season

This hurts both me and my established customers as the programs are of the utmost importance in selling units to customers. When I refuse to take their order of 60 units I cannot offer my customers any incentives to purchase thus, they go elsewhere. I cannot blame them; however, I can not move that many units so I cannot order them.

The flooring on the units is another issue. The OEM dictates when snowmobiles will be sent to my dealership and I have a certain number of days of flooring then I have to pay for the unit in full or be charged interest. The problem is this - the OEM's will send me snowmobiles in June or July and only give me 30 days flooring. I ask this - how many snowmobile units does any dealership sell in the middle of summer?

Under the no or limited parts return - the OEM's base this on purchases from them, if I do not purchase as much product as they want they then decrease what I am allowed to send back at the end of the season for unused parts, incorrect parts, etc., or they do not allow me to send anything back. It's a punishment from the OEM. When they do allow parts product to be returned they then stipulate that is must be: only so many years old, no obsolete parts, only in original wrapper (if they sent me 50 plastic darts wrapped separately I probably have them all in one bag, they discontinue use of the parts and I have nothing left to do with them).

The OEM's require purchase of a certain \$\$ amount of parts every year, when I go to order my parts for any given season I am unable to attain the part number for the current model parts. Then I don't give the order that the OEM wants, thus I am penalized with parts returns, freight, etc. (It's a vicious cycle with the OEM ruling myself, the little dealer.

Original Equipment Manufacturer

And then there is the "Dealer Certification" issue. BRP bases everything on their Dealer Certification. I can understand having to keep up to date on technology, but I cannot understand and do not accept that I am considered a non-certified dealer because I am unwilling to spend \$1000 plus expenses to go to workshops that do not affect me or my dealership; thus I cannot be considered "certified" so I am penalized - no freight reimbursement for returning warranty parts to the OEM (warranty parts meaning the OEM should be responsible for my expenses concerning them); having to call for authorization on warranty claims because I am not "certified". BRP has me under the gun here - I will not throw my money away for workshops that are irrelevant to me.

Both BRP and Polaris Industries have me over a barrel on the issue of legitimate warranty issues with their units - I know that a part is defective, I send it for warranty reimbursement and the OEM refuses to warranty the part - I am stuck holding the bag - I have no recourse on this issue at all. The OEM's know they have a problem (with their drive belts for example) but they know I can do nothing about it. If I were to go back to last year I am sure I ate the expense of over 40 drive belts that were poorly cured from the OEM but they refused to cover. If I do not provide this good PR and take care of the customer and cover for the OEM I will lose customers.

What this all comes down to is that the OEM's rule with an iron fist - they command and I comply or I lose my dealerships.

HB409 should help put the OEM's on the same playing field that I have to play on.

Thank for your present my cause. Once again please have anyone contact me that wish to discuss this further.

I truly appreciate your being there for my dealerships.

Rick D. Sommers  
Cooke City Exxon, Polaris and Ski-Doo

## **Service Supply Inc.**

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1/29/07

### **State of Montana Legislature**

I am writing this letter to make you aware of the pressures inflicted upon a Polaris dealer by that company. Service Supply Inc. had the dealership in Cut Bank from January 1<sup>st</sup> 2000 until around October 1<sup>st</sup> 2005. We sold several hundred ATV'S and utility vehicles for them.

The reason I no longer sell them is the demands from them as a dealer were wiping out any profit I was making selling at competitive margins. Polaris required that we pre-order machines and stock them at our cost for the season in order to qualify for discounts. They gave us 3 to 4 months without interest only if we ordered the amount they requested we order. They owned the finance company that loaned you the money to floor the units. The rate on that floor plan was several points over the prime rate. At the end of the year any profit you made from selling their products was taken away by the interest you paid on the floor plan.

The neighboring dealers had the same requirements. We all had several machines on hand we were paying them lots of interest which lowered our profit margin. Dealers sold due machines below planned margins to avoid interest charges. Polaris could not loose, they either got the profit from the sale that was non-negotiable and they got the interest you paid them. When we sold to the retail customers each deal was negotiable in order to lower our interest costs. When we paid Polaris there was no negotiating.

When I closed out my dealership with them I wanted the utility line of Polaris Ranger vehicles to stay within a 50 mile radius of us. This was for the customers I sold to in the past they would still have access to that line for parts and service. Polaris told me they would keep a dealership within 50 miles if I did not return my parts I got from them over those 5 years. Under the Montana buy back law I had the right to return those parts. Polaris had me sign an agreement saying I would not return those parts in return they would put a local dealer in place. I still have most of those parts and they are

depreciating rapidly. Again Goliath put pressure upon me David in order for them not to have to share in the cost of selling their product.

Bottom line is on this issue is they should not dictate to dealers how many machines to order that should be the dealers choice after all he is paying the interest. Polaris puts a lot of pressure on dealers to over stock their inventory at the dealers expense.

Thank You,

Burke McCormick  
President

## DEALER ADVOCATE

# A partnership that needs state protection

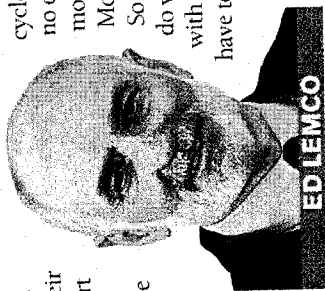
A comment I often get from dealers when I urge them to be active in their state dealer associations and support state franchise laws is, "I get along great with my suppliers. I don't have a problem."

It is not about problems, and it certainly is not about confrontation. State franchise laws level the playing field and genuinely make it easier for you to have an equitable relationship with your OEM supplier. However, the response above, since it is so common, is worth a little consideration.

I have always been an unequivocal advocate of dealers and have been quick to publicize inequities and mistreatment of dealers. I have on many occasions been accused of being unfair. That is not surprising, since I have never made any effort to be fair. I have always felt that given the vast resources available to OEMs, one vociferous advocate considering only the interests of the dealers did not seem to be that much of an imbalance.

The truth is, that other than a real bad spell during the early 1980s, there really has not been a great deal of really egregious things to talk about. OEM suppliers in our industry have come a long way when it comes to supporting their dealers. In fact I doubt there is another industry now providing the level of support, product development and training that motor-

cycle dealers receive today. There is no company on earth that has done more than the Harley-Davidson Motor Co. to make its dealers rich. So, if things are so wonderful, why do we need franchise laws? It starts with the commitment you as a dealer have to make and the fact that the investment usually equals all you have, and what you could borrow from your mother. You are all in. For the OEM, you are a



ED LEMCO

dot on the map in a number of department heads' offices. You have no ability to negotiate. Your OEM supplier does not wake in the morning and think about what he can do to hurt you, the opposite is more likely true. But, he does look at that map with all the pins in it to come up with the big picture.

You operate under the terms of a dealer agreement. The OEM would like to be able to change the terms of that dealer agreement when it suits the big picture. It is not a question of malice or indifference to your needs. They are not opposed to your profitability, it is just not a priority. You have worked hard, perhaps for generations, to establish your position in the marketplace. Hopefully that position is protected by a state franchise law.

When the needs of the OEM change, you are not in a position to negotiate. There is also the issue of significant change in the global marketplace. China is already a

major player worldwide. The Chinese have already demonstrated in a number of areas that they have the technology and wherewithal to produce state of the art and even leading-edge products. Every year they move a step closer to meeting the expectations of consumers in the United States. Our message needs to be, "welcome to America, but come and play by our rules." The rules that will protect you will be those promulgated by your state legislature.

For all of its recent advances, China only understands centralized government. The con-

So, if you get along great with your OEM(s), that is how it should be. It is a partnership. We all share the same objective of getting more product into the marketplace and more people safely operating what we sell. Dealers across the country, in good times and bad, have played no small role in gaining the level of public acceptance we are experiencing today.

The market is growing and so are the opportunities. When your OEM, after reviewing the pins on his map, decides that your market needs another dealer, you need to be in a position where he needs your permission.

## HOW'S BIZ?

Across the country demand is up, with many dealers saying the buyers are sure a lot tougher. I do not believe that is the case. They are a lot smarter, better informed, more mature and focused. Dealers doing the same are cashing in on the current wave. Those who are not are caught in the current and hanging on. What I for many years called the "swirl", I am now calling the "wave." Do what you have to do to get on top. We have never had a better ride. Cheers, Ed. **PSB**

*Ed Lemco has been involved with the powersports industry for more than 30 years. Lemco, the former owner of Lemco Management Group, is the founder and executive director of the National Council of Motorcycle Dealer Associations. Lemco currently operates a call center for dealers in St. Croix.*

**OEM suppliers  
in our industry  
have come a long way  
when it comes to  
supporting dealers.**

cept of local authorities regulating how an international company can do business is alien to them. We may need to be the one to give them a lesson on American economics and politics.

First and foremost, we have to make clear what a "dealer" is. Please see my comments in last month's *Powersports Business*. Legislation structured to protect the consuming public also is very much in the interest of the dealer, and in fact the industry as a whole.

